

EXHIBITS A – B

AFFIDAVITS OF
DR. STEPHANIE HOLLAND AND
ATTORNEY BRIAN T. MAY

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PETER DELVECCHIA, individually
and as next friend of A.D., a Minor,

Plaintiffs,

FRONTIER AIRLINES, INC., et al.,

Defendants.

Case No.: 2:19-cv-01322-KJD-DJA

DECLARATION OF DR. STEPHANIE HOLLAND

I, Dr. Stephanie Holland, declare and state the following:

1. I am a licensed psychologist in the States of Nevada and Colorado. I hold a Bachelor of Arts in Psychology from the University of Nevada, Las Vegas, a Master of Arts in Psychology from the California School of Professional Psychology, and a Doctorate in Psychology, obtained in 1996, from the California School of Professional Psychology.

2. I was retained by Frontier Airlines, Inc. ("Frontier") in the above-captioned case to perform a Rule 35 Examination of the minor Plaintiff A.D.

3. On August 5, 2022, Magistrate Judge Daniel Albregts entered a written Order granting Frontier's motion to conduct the Rule 35 Exam. The Order placed several conditions on the Exam, one of which prohibited the use of recording devices. ECF No. 195, p. 8.

4. On February 13, 2023, United States District Judge Kent J. Dawson entered a written Order denying Plaintiffs' Rule 72(a) Objection to Magistrate Judge Albregts' ruling.

5. On June 20, 2023, counsel for Frontier provided me with a summary of the protocol for the Rule 35 exam of A.D. that was approved by Judge Albregts and Judge Dawson, including the condition that observers and recording devices were prohibited during the exam.

6. On June 21, 2023, counsel for Frontier provided me with Judge Albregts' August 5, 2022, Order and Judge Dawson's February 13, 2023, Order, which set forth the approved protocol for the Rule 35 exam of A.D.

7. The exam was originally scheduled to take place on June 29, 2023. However, on June 28, 2023, while I was at the Denver International Airport, my flight to Raleigh, NC was cancelled, necessitating the rescheduling of the IME for July 25, 2023.

1 8. When I ultimately conducted the Rule 35 examination of Plaintiff A.D. on July 25,
2 2023, I forgot that Judge Albregts had prohibited recording devices in his August 5, 2022 Order.

3 9. In my private practice, I frequently record interviews to ensure the accuracy of my notes
4 regarding the subject's responses. In this particular case, I had reviewed A.D.'s deposition just prior
5 to the exam and was concerned about potential hearing issues. During his deposition, he was asked
several times to speak up due to the low volume of his speech. To avoid disrupting the flow of the
exam with repeated requests for A.D. to speak louder, I chose to record segments of A.D.'s Rule 35
Exam using my cell phone.

6 10. I understand that Plaintiffs' counsel contacted Brian T. Maye, counsel for Frontier
7 Airlines, Inc. shortly after the Rule 35 Examination to relay that I had recorded parts of the Exam.
Mr. Maye immediately contacted me, and I confirmed having made such recordings.

8 11. I have not listened to the recordings, nor have I authorized anyone else to listen to
9 the recordings, and I have not shared them with Mr. Maye, nor any other attorneys in this matter.

10 12. I solemnly swear that I did not purposefully violate Magistrate Judge Albregts'
11 Order prohibiting the use of recording devices, and Frontier's attorneys, including Brian T. Maye,
12 did not instruct me to do so. This was an honest mistake and the result of oversight.

13 13. While I have no intentions of listening to the recordings of A.D., I have preserved
them and can make them available to the Court upon request.

14 **I declare under penalty of perjury under the laws of the United States that the foregoing is
15 true and correct to the best of my knowledge.**

16 Dated: August 31, 2023



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Case No.: 2:19-cv-01322-KJD-DJA

DECLARATION OF BRIAN T. MAYE

I, Brian T. Maye, declare and state:

1. I am one of the attorneys representing Frontier Airlines, Inc. ("Frontier") in the above-captioned litigation.

2. On August 5, 2022, Magistrate Judge Daniel Albregts entered a written Order granting Frontier's motion to conduct the Rule 35 Exam of A.D. The Order placed several conditions on the Exam, one of which prohibited the use of recording devices. ECF No. 195, p. 8.

3. On February 13, 2023, United States District Judge Kent J. Dawson entered a written Order denying Plaintiffs' Rule 72(a) Objection to Magistrate Judge Albregts' ruling.

4. My office sent several materials to Dr. Holland to aid in her preparation for the Rule 35 Examination, including copies of the aforementioned Orders.

5. I also discussed with Dr. Holland the conditions imposed by Magistrate Judge Albregts, and understood that Dr. Holland was aware of the prohibition against recording devices.

6. The Rule 35 exam of A.D. was originally scheduled to take place on June 29, 2023. However, on June 28, 2023, Dr. Holland's flight to Raleigh, NC was cancelled, necessitating the rescheduling of the exam for July 25, 2023.

7. Shortly after A.D.'s Rule 35 Examination took place on July 25, 2023, Plaintiffs' counsel advised me that Dr. Holland had recorded portions of the Exam, in violation of Judge Albregts' original ruling.

8. Upon learning of the violation of the Court's Order, I immediately contacted Dr. Holland and asked her to preserve the recordings.

1 9. I understand that Dr. Holland has neither listened to the recordings herself nor
2 allowed anyone else to listen to the recordings.

3 10. While I have no intentions of listening to the recordings of A.D., I will work with
4 Dr. Holland to ensure the recordings are preserved, and can make them available to the Court upon
request.

5 **I declare under penalty of perjury under the laws of the United States that the foregoing is
6 true and correct to the best of my knowledge.**

7 Dated: August 31, 2023



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